

By: Thompson of Harris

H.B. No. 2561

Substitute the following for H.B. No. 2561:

By: Price

C.S.H.B. No. 2561

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas State Board of Pharmacy; authorizing a reduction in fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.074(q), Health and Safety Code, is amended to read as follows:

(q) Each dispensing pharmacist shall send all required information, including any information required to complete the Schedule III through V prescription forms, to the board by electronic transfer or another form approved by the board not later than the next business [~~seventh~~] day after the date the prescription is completely filled.

SECTION 2. Section 481.075(i), Health and Safety Code, is amended to read as follows:

(i) Each dispensing pharmacist shall:

(1) fill in on the official prescription form or note in the electronic prescription record each item of information given orally to the dispensing pharmacy under Subsection (h) and the date the prescription is filled, and:

(A) for a written prescription, fill in the dispensing pharmacist's signature; or

(B) for an electronic prescription, appropriately record the identity of the dispensing pharmacist in the electronic prescription record;

(2) retain with the records of the pharmacy for at least two years:

(A) the official prescription form or the electronic prescription record, as applicable; and

(B) the name or other patient identification required by Section 481.074(m) or (n); and

(3) send all required information, including any information required to complete an official prescription form or electronic prescription record, to the board by electronic transfer or another form approved by the board not later than the next business ~~[seventh]~~ day after the date the prescription is completely filled.

SECTION 3. Section 481.0761, Health and Safety Code, is amended by adding Subsections (h), (i), and (j) to read as follows:

(h) The board, in consultation with the department and the regulatory agencies listed in Section 481.076(a)(1), shall identify prescribing practices that may be potentially harmful and patient prescription patterns that may suggest drug diversion or drug abuse. The board shall determine the conduct that constitutes a potentially harmful prescribing pattern or practice and develop indicators for levels of prescriber or patient activity that suggest a potentially harmful prescribing pattern or practice may be occurring or drug diversion or drug abuse may be occurring.

(i) The board, based on the indicators developed under Subsection (h), may send an electronic notification to a dispenser or prescriber if the information submitted under Section 481.074(q) or 481.075 indicates a potentially harmful prescribing pattern or

practice may be occurring or drug diversion or drug abuse may be occurring.

(j) The board by rule may develop guidelines identifying behavior suggesting a patient is obtaining controlled substances that indicate drug diversion or drug abuse is occurring. A pharmacist who observes behavior described by this subsection by a person who is to receive a controlled substance shall access the information under Section 481.076(a)(5) regarding the patient for whom the substance is to be dispensed.

SECTION 4. Subchapter C, Chapter 481, Health and Safety Code, is amended by adding Sections 481.0763 and 481.0764 to read as follows:

Sec. 481.0763. DUTY OF PHARMACISTS. A pharmacist must access information under Section 481.076(a)(5) with respect to a patient before dispensing opioids, benzodiazepines, barbiturates, or carisoprodol for the patient.

Sec. 481.0764. REPORTS OF WHOLESALE DISTRIBUTORS. (a) A wholesale distributor shall report to the board the information that the distributor is required to report to the Automation of Reports and Consolidated Orders System (ARCOS) of the Federal Drug Enforcement Administration for the distribution of a controlled substance by the distributor to a person in this state. The distributor shall report the information to the board in the same format and with the same frequency as the information is reported to ARCOS.

(b) Information reported to the board under Subsection (a) is confidential and not subject to disclosure under Chapter 552,

1 Government Code.

2 SECTION 5. Section 551.005, Occupations Code, is amended to
3 read as follows:

4 Sec. 551.005. APPLICATION OF SUNSET ACT. The Texas State
5 Board of Pharmacy is subject to Chapter 325, Government Code (Texas
6 Sunset Act). Unless continued in existence as provided by that
7 chapter, the board is abolished and this subtitle expires September
8 1, 2029 [~~2017~~].

9 SECTION 6. Section 552.006, Occupations Code, is amended by
10 amending Subsection (b) and adding Subsection (d) to read as
11 follows:

12 (b) The training program must provide the person with
13 information regarding:

14 (1) the law governing the board's operations;

15 (2) [~~this subtitle and~~] the programs, functions,
16 rules, and budget of the board;

17 (3) the scope of and limitations on the rulemaking
18 authority of the board;

19 (4) [~~(2)~~] the results of the most recent formal audit
20 of the board;

21 (5) [~~(3)~~] the requirements of:

22 (A) laws relating to open meetings, public
23 information, administrative procedure, and disclosing conflicts of
24 interest; and

25 (B) other laws applicable to members of the board
26 in performing their duties; and

27 (6) [~~(4)~~] any applicable ethics policies adopted by

the board or the Texas Ethics Commission.

(d) The executive director shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each board member. On receipt of the training manual, each board member shall sign and submit to the executive director a statement acknowledging receipt of the training manual. The board shall publish a copy of each signed statement on the board's Internet website.

SECTION 7. Section 553.003(b), Occupations Code, is amended to read as follows:

(b) The executive director is a full-time employee of the board and shall:

- (1) serve as secretary to the board; ~~and~~
- (2) perform the regular administrative functions of the board and any other duty as the board directs; and
- (3) under the direction of the board, perform the duties required by this subtitle or designated by the board.

SECTION 8. Subchapter A, Chapter 554, Occupations Code, is amended by adding Section 554.0011 to read as follows:

Sec. 554.0011. USE OF ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION. (a) The board shall develop a policy to encourage the use of:

- (1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and
- (2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the

1 resolution of internal and external disputes under the board's
2 jurisdiction.

3 (b) The board's procedures relating to alternative dispute
4 resolution must conform, to the extent possible, to any model
5 guidelines issued by the State Office of Administrative Hearings
6 for the use of alternative dispute resolution by state agencies.

7 (c) The board shall:

8 (1) coordinate the implementation of the policy
9 adopted under Subsection (a);

10 (2) provide training as needed to implement the
11 procedures for negotiated rulemaking or alternative dispute
12 resolution; and

13 (3) collect data concerning the effectiveness of those
14 procedures.

15 SECTION 9. Section 558.051(a), Occupations Code, is amended
16 to read as follows:

17 (a) To qualify for a license to practice pharmacy, an
18 applicant for licensing by examination must submit to the board:

19 (1) a license fee set by the board; and

20 (2) a completed application on a form prescribed by
21 the board with satisfactory sworn evidence that the applicant:

22 (A) is at least 18 years of age;

23 (B) ~~[is of good moral character,~~

24 ~~[(C)]~~ has completed a minimum of a 1,000-hour
25 internship or other program that has been approved by the board or
26 has demonstrated, to the board's satisfaction, experience in the
27 practice of pharmacy that meets or exceeds the board's minimum

1 internship requirements;

2 (C) [~~(D)~~] has graduated and received a
3 professional practice degree, as defined by board rule, from an
4 accredited pharmacy degree program approved by the board;

5 (D) [~~(E)~~] has passed the examination required by
6 the board; and

7 (E) [~~(F)~~] has not had a pharmacist license
8 granted by another state restricted, suspended, revoked, or
9 surrendered, for any reason.

10 SECTION 10. Section 558.101(a), Occupations Code, is
11 amended to read as follows:

12 (a) To qualify for a license to practice pharmacy, an
13 applicant for licensing by reciprocity must:

14 (1) submit to the board:

15 (A) a reciprocity fee set by the board; and

16 (B) a completed application in the form
17 prescribed by the board, given under oath;

18 (2) ~~[be of good moral character,~~

19 ~~(3)]~~ have graduated and received a professional
20 practice degree, as defined by board rule, from an accredited
21 pharmacy degree program approved by the board;

22 (3) [~~(4)~~] have presented to the board:

23 (A) proof of current or initial licensing by
24 examination; and

25 (B) proof that the current license and any other
26 license granted to the applicant by another state has not been
27 restricted, suspended, revoked, or surrendered for any reason; and

1 (4) [~~(5)~~] pass the Texas Pharmacy Jurisprudence
2 examination.

3 SECTION 11. Section 559.003, Occupations Code, is amended
4 by adding Subsection (f) to read as follows:

5 (f) The board may refuse to renew a license to practice
6 pharmacy for a license holder who is in violation of a board order.

7 SECTION 12. Section 568.002(c), Occupations Code, is
8 amended to read as follows:

9 (c) An applicant for registration as a pharmacy technician
10 or a pharmacy technician trainee must[+]

11 ~~[(1) be of good moral character; and~~
12 ~~[(2)]~~ submit an application on a form prescribed by
13 the board.

14 SECTION 13. Section 568.004, Occupations Code, is amended
15 to read as follows:

16 Sec. 568.004. RENEWAL OF REGISTRATION. (a) The board may
17 adopt a system in which the registrations of pharmacy technicians
18 and pharmacy technician trainees expire on various dates during the
19 year.

20 (b) To renew a pharmacy technician registration, the
21 registrant must, before the expiration date of the registration:

22 (1) pay a renewal fee as determined by the board under
23 Section 568.005; and

24 (2) comply with the continuing education requirements
25 prescribed by the board in accordance with Section 568.0045.

26 (c) A person whose pharmacy technician registration has
27 been expired for 90 days or less may renew the expired registration

1 by paying to the board a renewal fee that is equal to one and
2 one-half times the normally required renewal fee for the
3 registration.

4 (d) A person whose pharmacy technician registration has
5 been expired for more than 90 days but less than one year may renew
6 the expired registration by paying to the board a renewal fee that
7 is equal to two times the normally required renewal fee for the
8 registration.

9 (e) A person whose pharmacy technician registration has
10 been expired for one year or more may not renew the
11 registration. The person may register by complying with the
12 requirements and procedures for initially registering, including
13 the examination requirement.

14 (f) The board may refuse to renew a pharmacy technician
15 registration for a registrant who is in violation of a board order.

16 SECTION 14. Chapter 568, Occupations Code, is amended by
17 adding Section 568.0045 to read as follows:

18 Sec. 568.0045. RULES RELATING TO CONTINUING EDUCATION. The
19 board shall adopt rules relating to the continuing education
20 required for pharmacy technicians. The rules must include
21 requirements for:

- 22 (1) the number of hours of continuing education;
23 (2) the methods for meeting the continuing education
24 requirements;
25 (3) the approval of continuing education programs;
26 (4) reporting completion of continuing education;
27 (5) records of completion of continuing education; and

1 (6) board audits to ensure compliance with the
2 continuing education requirements.

3 SECTION 15. A pharmacist is not required to comply with a
4 rule adopted under Section 481.0761(j), Health and Safety Code, as
5 added by this Act, before January 1, 2018.

6 SECTION 16. Section 481.0763, Health and Safety Code, as
7 added by this Act, applies only to a pharmacist who dispenses a
8 controlled substance on or after January 1, 2018.

9 SECTION 17. (a) Except as provided by Subsection (b) of
10 this section, Section 552.006, Occupations Code, as amended by this
11 Act, applies to a member of the Texas State Board of Pharmacy
12 appointed before, on, or after the effective date of this Act.

13 (b) A member of the Texas State Board of Pharmacy who,
14 before the effective date of this Act, completed the training
15 program required by Section 552.006, Occupations Code, as that law
16 existed before the effective date of this Act, is required to
17 complete additional training only on subjects added by this Act to
18 the training program as required by Section 552.006, Occupations
19 Code, as amended by this Act. A board member described by this
20 subsection may not vote, deliberate, or be counted as a member in
21 attendance at a meeting of the board held on or after December 1,
22 2017, until the member completes the additional training.

23 SECTION 18. Sections 558.051, 558.101, and 568.002,
24 Occupations Code, as amended by this Act, apply only to an
25 application for a license to practice pharmacy or for registration
26 as a pharmacy technician or pharmacy technician trainee filed on or
27 after the effective date of this Act. An application for a license

1 or registration filed before the effective date of this Act is
2 governed by the law in effect on the date the application was filed,
3 and the former law is continued in effect for that purpose.

4 SECTION 19. Section 559.003, Occupations Code, as amended
5 by this Act, and Sections 568.004(b), (e), and (f), Occupations
6 Code, as added by this Act, apply only to the renewal of a license to
7 practice pharmacy or of a pharmacy technician registration on or
8 after the effective date of this Act. The renewal of a license or
9 registration before that date is governed by the law in effect
10 immediately before the effective date of this Act, and the former
11 law is continued in effect for that purpose.

12 SECTION 20. As soon as practicable after the effective date
13 of this Act, the Texas State Board of Pharmacy shall adopt rules to
14 reduce the amount of the fees imposed by the board for the renewal
15 of an expired pharmacy technician registration to reflect the
16 amounts provided for by Sections 568.004(c) and (d), Occupations
17 Code, as added by this Act. A pharmacy technician who renews an
18 expired registration certificate on or after the effective date of
19 this Act shall pay the amount provided for by Section 568.004(c) or
20 (d), Occupations Code, as added by this Act, instead of the amount
21 provided for under board rules adopted before that date.

22 SECTION 21. This Act takes effect September 1, 2017.